

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KEVIN DARNELL BRYANT,

Plaintiff,

vs.

SELEAINA ANN THOMAS;
VROOMAN; SEPULVEDA;

Defendants.

CASE NO. 09CV1334 WQH-
MDD

ORDER

HAYES, Judge:

The matter before the court is the Report and Recommendation recommending that the Motion for Relief from Judgment filed by Plaintiff Kevin Darnell Bryant be denied. (ECF No. 164).

BACKGROUND

On June 19, 2009, Plaintiff, a state prisoner, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against three medical staff members at Calipatria State Prison. Plaintiff alleged that Defendants were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment.

On November 27, 2012, this Court entered an order granting summary judgment in favor of Defendants Thomas, Vrooman, and Sepulveda and dismissing Plaintiff's claims. (ECF No. 114). The Court found that there was no evidence that Defendant Thomas, a nurse practitioner, deliberately withheld treatment, delayed treatment, or interfered with treatment. Plaintiff filed a notice of appeal to the Court of Appeals for

1 the Ninth Circuit on March 3, 2014 after the entry of a Judgment. (ECF No. 141 and
2 ECF No. 144).

3 On December 12, 2014, Plaintiff filed a motion for relief from judgment seeking
4 relief from judgment against Defendant Thomas. (ECF No. 152). Plaintiff's appeal
5 was stayed pending ruling on this motion. (ECF No. 154).

6 On June 18, 2015, the Magistrate Judge issued a Report and Recommendation,
7 recommending that the Motion for Relief from Judgment be denied. (ECF No. 164).
8 After an extension of time, Plaintiff's objections were due "no later than September 1,
9 2015." (ECF No. 168). No objections have been filed.

10 REVIEW OF THE REPORT AND RECOMMENDATION

11 The duties of the district court in connection with a report and recommendation
12 of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28
13 U.S.C. § 636(b). The district judge must "make a de novo determination of those
14 portions of the report ... to which objection is made," and "may accept, reject, or
15 modify, in whole or in part, the findings or recommendations made by the magistrate."
16 28 U.S.C. § 636(b). The district court need not review de novo those portions of a
17 report and recommendation to which neither party objects. *See Wang v. Masaitis*, 416
18 F.3d 992, 1000 n.13 (9th Cir. 2005); *U.S. v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th
19 Cir. 2003) (en banc).

20 After reviewing the Report and Recommendation and the record in its entirety,
21 the Court finds that the Magistrate Judge correctly found that Plaintiff's Motion for
22 Relief from Judgment should be denied.

23
24
25
26
27 ///

CONCLUSION

IT IS HEREBY ORDERED that the Report and Recommendation is ADOPTED in its entirety. (ECF No. 164). The Motion for Relief from Judgment under Rule 60(b)(2) (ECF No. 152) is denied.

DATED: September 8, 2015


WILLIAM Q. HAYES
United States District Judge